IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2228 OF 2005

Deepak Dhirajlal Dave. ... . Petitioner.

Versus

Airport Authority of India & Ors... ... ... Respondents.

Mr. M. U. Pande for the Petitioner.
Mr. P. K. Samdani with Mr.M. S. Dehlvi i/by
M/s. M. V. Kini & Co., for Respondent Nos.1 & 2.

CORAM: DALVEER BHANDARI, C.J. &
S. J. VAZIFDAR, J.

DATED : SEPTEMBER 5, 2005.

P.C. :

The Petitioner has filed this petition with a grievance that his Technical Bid has been erroneously rejected by the first Respondent- the Airport Authority of India. The Petitioner's further grievance is that the second Respondent be restrained by an order of this Court from awarding the contract for providing /

operating the services of Inter-Terminal Coaches with Drivers & Loaders on 24 hours basis for transporting Air-Passengers from Domestic to International Terminal Via City Side & Vice-Versa with effect from 10th July, 2005 to 9th July, 2006 to Respondent No.3 and/or entering into any Agreement / Contract with Respondent No.3.

2. Learned Counsel appearing for the first Respondent, the Airport Authority of India, submitted that the Petitioner's Technical Bid was rejected because the Petitioner did not fulfil basic mandatory requirements of technical bid. He submitted that according to the advertisement inviting the tenders dated 28th May, 2005, the following mandatory condition had to be complied with, viz.:-

> Requirement of Respondent No.1 was to provide Telco/Ashok Leyland make Air-conditioned coach, 30+1 Seater, Euro-II.

Admittedly, the Petitioner did not have either Telco or Ashok Leyland Air-conditioned coach. The Registration Certificate

indicates that he had Eicer Motors.

3. Admittedly, when Technical Bid was opened on 21st June, 2005, the Petitioner even did not possess the Registration Certificate (R.C.) from the Regional Transport Authority of Maharashtra. Admittedly, the R.C. Book was issued to the Petitioner after the Technical Bid was opened by the first Respondent. In absence of R. C. book the Respondents were justified in rejecting the Petitioner's technical bid.

4. Learned Counsel appearing for the first Respondent has further drawn our attention to para 5, page 9 of the petition and demonstrated that in fact what the Petitioner purchased was not a new Air-conditioned coach but only chassis on 14th June, 2005 and thereafter the Petitioner gave the same for body building on the chassis and after the same was completed, the same had to be inspected by the first Respondent. According to the first Respondent, the body building of the coach itself got completed after 21st June, 2005 (after the last date of opening the technical bid).

5. Learned Counsel appearing for the first Respondent has drawn our attention to a letter sent by the Petitioner to the first Respondent on 28th June, 2005. The relevant portion of the letter reads as under:

> "Now today I have received R. C. book of new bus from RTO office for M.V. No. MH-02/XA-977, herewith I am enclosing Xerox copy of the R. C. Book of the new bus, this fulfills the additional requirement for the tender formality."

According to the first Respondent, even on the own showing of the Petitioner, the mandatory requirement of Technical Bid was not completed before 28th June, 2005, whereas, according to the notice inviting the tender, the date for opening the tender bid was 21st June, 2005.

6. We have heard the learned Counsel for the parties. Admittedly, the Petitioner did not fulfill the mandatory requirements of the technical bid. In this view of the matter, the first Respondent was entitled to reject the Technical Bid of the Petitioner. The learned Counsel for the first Respondent has also shown that the allegation, which has been levelled against

Respondent No.3, is totally devoid of any merit. He has also shown the documents pertaining to Technical Bid of Respondent No.3. The documents clearly show that Respondent No.3 had Tata Motors bus with a sitting capacity of 39+1 (40) persons. They also had passenger bus with Air-conditioned coach which was a requirement of the first Respondent. They had submitted the Registration Certificate along with the Technical Bid. Respondent No.3, admittedly, fulfilled the mandatory requirements of the Technical Bid. Accordingly, we do not find any infirmity in the first Respondent awarding the contract to Respondent No.3.

6. This petition, being totally devoid of any merit, is hereby dismissed with costs of Rs.5,000/- to be paid by the petitioner to the first Respondent within four weeks from today.

Sd/-

CHIEF JUSTICE

Sd/-

S. J. VAZIFDAR, J.